

REMARKS

Claims 32, 34-36, 38, and 40-62 are pending. Claims 33, 37, and 39 have been canceled. Claims 32, 34, 38, 40, 45, 56, and 60 have been amended.

The Notice of Non-Compliant Amendment asserts that a complete listing of all of the claims was not present in the Amendment filed on April 16, 2008. This Amendment includes an indication of the status of claims 1-31 in the Listing of Claims, and thus it is believed the non-compliance has been cured. Other than additions and changes necessary for responding to the Notice, this Amendment is identical to the Amendment that was filed on April 16, 2008.

The indication that claims 39-42, 44, 51-54, and 56-59 are allowable if suitably amended is gratefully acknowledged. Independent claim 32 has been amended to incorporate the features of claim 39 and the other claims on which claim 39 depended, and claim 56 has been amended to incorporate the features of unamended claim 32, from which claim 56 depended. As a result, it is respectfully submitted that all of the pending claims are now allowable.

The objections to the drawings are noted. With respect to the "resonators" mentioned in the Action, it is respectfully pointed out that page 11, line 5, of the International Publication describes "patch resonators  $a_{22}$ ,  $a_{23}$ " that are depicted in Fig. 1A, for example. With respect to the "phase modulator" mentioned in the Action, page 15, lines 6-8, of the International Publication point out that the arrangement 60 depicted in Figs. 6A, 6B, for example, comprises a phase modulator. With respect to "three-dimensional radiator array", Figs. 9, 10A, 10B, and 11 depict arrangements 90, 100, and 105 that are multi-layer (e.g., three-dimensional) arrays discussed in the International Publication at, for example, page 17; and page 7, line 29 - page 8, line 2. With respect to "dielectric or ferroelectric layers are provided on sides of the first and second metal layers . . .", the International Publication states, for example at page 14, lines 20-23, that "On those sides of the first and second metal layers 13, 23 facing away from the intermediate ferroelectric layer 33, conventional dielectric layers  $4A_1, 4A_2$  are provided" that are depicted in Fig. 6A, for example. Because the items mentioned in the Action are already shown in the drawings, it is respectfully submitted that no

amendment is necessary and it is respectfully requested that the drawing objections be withdrawn.

The objection to claim 62 is not understood. Claim 62 is a dependent claim that recites a step of using an arrangement for changing at least one of a phase and amplitude distribution of the signals reflected and/or transmitted through the arrangement. The arrangement used is simply that defined by claim 32. According to MPEP 608.01(n), this form of claiming is not objectionable. MPEP 608.01(n) provides that "The fact that the independent and dependent claims are in different statutory classes does not, in itself, render the latter improper. Thus, if claim 1 recites a specific product, a claim for the method of making the product of claim 1 in a particular manner would be a proper dependent claim since it could not be infringed without infringing claim 1." Accordingly, it is respectfully requested that the objection to claim 62 be reconsidered and withdrawn.

Claims 32-38, 43, 45, 47-50, and 60-62 were rejected under 35 U.S.C. § 102(e) for anticipation by U.S. Patent No. 6,972,727 to West et al. ("West"), and claims 46 and 55 were rejected under 35 U.S.C. § 103(a) for obviousness over a combination of West and U.S. Patent No. 6,756,947 to Toncich et al.

The rejections have been rendered moot by this Amendment, which has, among other things, incorporated the features of allowable claim 39 and the claims on which claim 39 depended into independent claim 32. Thus, the rejected claims are now allowable.

If the Examiner has any questions, the undersigned attorney may be telephoned at the number given below.

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Respectfully submitted,

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